APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/667,742	09/22/2000	Charles Cameron Brackett	15-UL-5580	9983

44702 7590 05/03/2005		EXAMINER	
OSTRAGER CHONG FLAHERTY & BROITMAN PC		HENEGHAN, MATTHEW E	
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NEW YORK, NY 10177	ART UNIT	PAPER NUMBER	
	2134		

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/667,742	BRACKETT, CHARLES CAMERON
	Examiner	Art Unit
	Matthew Heneghan	2134

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>06 April 2005</u>.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
   closed in accordance with the practice under *Ex parte Quayle,* 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-5,8-13 and 30-36</u> is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-5,8-13 and 30-36</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>22 September 2000</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
      application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
   Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   In an after-final amendment in response to the most recent office action,

Applicant has amended claim 30, and has persuasively argued that prosecution

should be re-opened. Claims 1-5, 8-13, and 30-36 have been examined.

Claim Rejections - 35 USC § 112

2.   In view of Applicant's amendment, all previous rejections under 35 U.S.C.

112 are withdrawn.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described
> as set forth in section 102 of this title, if the differences between the subject matter sought to
> be patented and the prior art are such that the subject matter as a whole would have been
> obvious at the time the invention was made to a person having ordinary skill in the art to which
> said subject matter pertains. Patentability shall not be negatived by the manner in which the
> invention was made.

3.   Claims 1, 4, 8, 9, 11, 12, 13, 30-32, and 34-36 are rejected under 35

U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,269,379 to Hiyama

et al. in view of U.S. Patent No. 6,694,434 to McGee et al. further in view of U.S.

Patent No. 5,319,776 to Hile et al.

As per claim 1, Hiyama discloses a system for acquiring images from an endoscope (see column 3, lines 54-55). Each image constitutes a frame. The system has memory for storing images and operating code, which is loaded from a hard disk at power-up (see column 4, lines 3-5 and column 6, lines 30-32), a viewing monitor for displaying frames (see column 4, lines 28-31).

Hiyama does not disclose the use of an encrypted registry or measures to directly protect against computer viruses, but notes that it is desirable to protect against viruses (see column 8, lines 66-67).

McGee discloses that processes be checked against a registry (see column 5, lines 13-20) before being started (see column 4, lines 20-23) and that registry information is signed (encrypted) using a private key (see column 4, lines 35-39), and authenticated (decrypted) using a public key (see column 5, lines 10-12), and further suggests that it would be desirable to provide a mechanism that reduces the likelihood of an unauthorized application being run, such as one that contains a virus (see column 2, lines 42-48).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to implement security on the system of Hiyama in the manner disclosed by McGee, as it would be desirable to provide a mechanism that reduces the likelihood of an unauthorized application being run, such as one that contains a virus.

Hiyama and McGee also do not disclose a means by which a file may be tested for a computer virus before being installed on a hard disk.

Hile discloses a computer virus safeguard system wherein a file being
copied to a hard disk is tested for virus signatures before being copied to the
hard disk (see column 4, lines 23-47). Hile further suggests that systems that do
not do this cannot totally prevent a virus from attacking or spreading (see column
1, lines 51-54).

Therefore, it would have been obvious to one having ordinary skill in the
art at the time the invention was made to modify the system of Hiyama and
McGee by testing a file being copied to a hard disk for virus signatures, as
disclosed by Hile, as systems that do not do this cannot totally prevent a virus
from attacking or spreading.

Regarding claims 4, 8, and 9, McGee discloses that the system checks if
the application being started is on the registration list, and, if not, notifies the user
about the potential virus and gets instructions using a graphical user interface
(see McGee, column 7, line 63 to column 7, line 9 and column 7, lines 41-65),
and kills the process if the user does not give permission (see McGee, figure 3a).

Regarding claims 11 and 34, Hiyama and McGee do not disclose an
option to delete files from storage after discovering that they may be infected.

Hile further discloses a virus safeguard wherein infected files are deleted
from storage (see column 7, lines 17-44), and further suggests that prevents the
virus from spreading to other computer systems that communicate with that
system (see column 2, lines 4-11).

Therefore, it would be obvious to one of ordinary skill in the art at the time
the invention was made to further modify the invention of Hiyama and McGee be

adding an option to delete files from storage, as disclosed by Hile, in order to prevent the virus from spreading to other computer systems that communicate with that system.

Regarding claims 12 and 13, after the user is notified that an application is requesting to execute (see McGee, column 8, lines 42-45), a second signal is sent to the user asking whether execution privileges should be granted (see McGee, column 8, lines 45-51), resulting in the application being registered.

Hiyama, McGee, and Hile do not disclose the use of actuators in the user interfaces.

Regarding all limitations involving the use of virtual actuators in user interfaces, Official notice is given that the use of actuators for user dialog in graphical user interfaces is well-known in the art, as they make programs more user-friendly.

Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to implement the invention of Hiyama, McGee, and Hile using actuators in the user interfaces, in order to make the system more user-friendly.

Regarding claims 30-32, 35, and 36, the system disclosed by Hiyama constitutes a computer.

4.   Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,269,379 to Hiyama et al. in view of U.S. Patent No. 6,694,434 to McGee et al. further in view of U.S. Patent No. 5,319,776 to Hile et

al. as applied to claim 1 and further in view of U.S. Patent No. 5,881,151 to Yamamoto.

Hiyama, McGee, and Hile do not disclose checking for checksums or file size.

The virus diagnosing system disclosed by Yamamoto checks for a file using techniques including checksums and size checks before executing a program (see abstract), and Yamamoto further suggests that this enables a discrimination to be made to minimize the damage of the virus (see column 2, line 66 to column 3, line 2).

Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to further modify the invention of Hiyama, McGee, and Hile by checking for checksums and size, as disclosed by Yamamoto, to minimize the damage of the virus.

5.   Claims 5, 10, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,269,379 to Hiyama et al. in view of U.S. Patent No. 6,694,434 to McGee et al. further in view of U.S. Patent No. 5,319,776 to Hile et al. as applied to claims 4, 9, and 32, above, and further in view of U.S. Patent No. 6,266,773 to Kisor et al.

Hiyama, McGee, and Hile do not disclose a log of events.

Kisor discloses a computer security system wherein historical events are compiled, so that the real time activity of a program can be monitored to see whether the real time activity fits within the stored patterns.

Therefore, it would be obvious to one of ordinary skill in the art at the time

the invention was made to modify the invention of Hiyama, McGee, and Hile by

compiling historical events, as disclosed by Kisor, so that the real time activity of

a program can be monitored to see whether the real time activity fits within the

stored patterns.

Response to Arguments

6.   Applicant's arguments, see Remarks, filed 6 April 2005, with respect to the

rejections of the claims under 35 U.S.C. 103 have been fully considered and are

persuasive. Therefore, the rejection has been withdrawn. However, upon further

consideration, a new ground(s) of rejection is made in view of the art cited above.

Applicant has persuasively argued that the previous rejection over Hiyama

and McGee does not teach to a limitation, the testing for viruses on data before it

is installed on a hard disk (see Remarks, p. 9). Hile, which was previously cited in

the grounds of rejection with respect to claims 11 and 34, does teach this feature,

and the grounds of rejection are now made in view of Hile.

Regarding Applicant's argument that the incorporation of McGee into Hile

would not be obvious because Hiyama has already solved the problem which

McGee would solve (see Remarks, p. 10), it is noted that there are many ways

by which a computer virus may invade a system, and no single solution is all-

encompassing. Hiyama indicates that virus prevention is desirable, and one

skilled in the art would therefore find it advantageous to augment Hiyama's

invention with additional virus prevention features.

Conclusion

7.   Applicant's amendments in view of the first Office Action necessitated the

new ground(s) of rejection presented in this Office action. Accordingly, **THIS**

ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the

extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire

THREE MONTHS from the mailing date of this action. In the event a first reply is

filed within TWO MONTHS of the mailing date of this final action and the advisory

action is not mailed until after the end of the THREE-MONTH shortened statutory

period, then the shortened statutory period will expire on the date the advisory

action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

calculated from the mailing date of the advisory action. In no event, however, will

the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

8.   Any inquiry concerning this communication or earlier communications from

the examiner should be directed to Matthew E. Heneghan, whose telephone

number is (571) 272-3834. The examiner can normally be reached on Monday-

Friday from 8:30 AM - 4:30 PM Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the

examiner's supervisor, Gregory Morse, can be reached at (571) 272-3838.

Any response to this action should be mailed to:
Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450
Or faxed to:
(703) 872-9306

Any inquiry of a general nature or relating to the status of this application

or proceeding should be directed to the receptionist whose telephone number is

(571) 272-2100.

Information regarding the status of an application may be obtained from

the Patent Application Information Retrieval (PAIR) system. Status information

for published applications may be obtained from either Private PAIR or Public

PAIR. Status information for unpublished applications is available through

Private PAIR only. For more information about the PAIR system, see http://pair-

direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-

free).

MEH

April 27, 2005

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